

ESTTA Tracking number: **ESTTA599447**

Filing date: **04/18/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92057484
Party	Plaintiff Shirley's World, L.P.
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Submission	Stipulated/Consent Motion to Extend
Filer's Name	Jackie M. Joseph
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Signature	/s/Jackie M. Joseph
Date	04/18/2014
Attachments	Consented Motion (Cancellation No. 92057484).pdf(13603 bytes )

**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Registration No. 3418196 and Registration No. 4191275  
(Consolidated Proceedings)**

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Shirley's World, L.P.,

Cancellation No.  
92057484 (Parent Case)

Cancellation No.  
92057506

Petitioner,

- against -

Earl C.J. Prater,  
Respondent

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**PETITIONER'S CONSENTED MOTION  
TO EXTEND DEADLINES FOR 30 DAYS**

**I. The Parties' Request.**

Pursuant TBMP §501.01 and §509.01, Petitioner, Shirley's World, L.P., on the one hand, and Respondent, Earl C.J. Prater, on the other hand (collectively, the "Parties"), have agreed to extend all deadlines prescribed by the Board in these consolidated proceedings by thirty (30) days.<sup>1</sup> Accordingly, the Parties request an order that the dates for this consolidated proceeding be reset, as follows:

Initial Disclosures Due:	5/20/2014
Expert Disclosures Due:	9/18/2014
Discovery Closes:	10/18/2014
Plaintiff's Pretrial Disclosures:	12/2/2014
Plaintiff's 30 Day Trial Period Ends:	1/16/2014

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<sup>1</sup> Pursuant to Pursuant to TBMP §502.02 and CFR §2.121(d), Respondent has given his consent to this Motion.

Defendant's Pretrial Disclosures:	1/31/2015
Defendant's 30 Day Trial Period Ends:	3/17/2015
Plaintiff's Rebuttal Disclosures:	4/1/2015
Plaintiff's 15 Day Rebuttal Period Ends:	5/1/2015

This extension is requested so as to provide the Parties with additional time to attempt to negotiate a settlement of the contested issues raised in these proceedings without the need to proceed before the Board.

## **II. Good Cause Exists To Grant This Consented Motion.**

This Motion is made prior to the expiration of all deadlines (the current deadline to serve initial disclosures is April 21, 2014).

The standard for allowing an extension of a prescribed period prior to the expiration of that period is good cause. See Fed. Rule Civ. Proc. 6(b)(1). Ordinarily, the Board is liberal in granting extensions of time before the period to act has elapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. American Vitamin Products, Inc. v. DowBrands, Inc., 22 USPQ 2d 1312, 1314 (TTAB 1992).

Here, good cause exists to grant the stipulated extension as to all deadlines. The Parties verbally agreed on April 18, 2014 – three days before initial disclosures were due – to an extension of time because they believe that additional time is needed to consider the potential for settlement without simultaneously engaging in these adversarial proceedings. There is no basis upon which to allege bad faith, negligence, or tactics solely designed to delay in connection with this joint request for an extension.

### **III. Conclusion.**

The Parties respectfully request that the Board agree to their stipulated thirty (30) day extension of time for all deadlines at issue so that they may take the time needed to explore potential settlement opportunities.

Dated: April 18, 2014

EISNER JAFFE  
GORRY CHAPMAN & ROSS

By: /s/ Jackie M. Joseph  
Jackie M. Joseph  
Attorneys for Petitioner, Shirley's World,  
L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PETITIONER'S CONSENTED MOTION TO REOPEN AND EXTEND DEADLINES FOR 30 DAYS** was served upon Respondent in this action addressed as follows:

Mr. Earl C.J. Prater  
Respondent, acting on his own behalf  
P.O. Box 51542  
Sparks, NV 89435-1542

**BY MAIL.** I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice such envelope(s) is deposited with the U.S. Postal Service on the same day this declaration was executed, with postage thereon fully prepaid at 9601 Wilshire Boulevard, Suite 700, Beverly Hills, California 90210, in the ordinary course of business.

Executed on April 18, 2014, at Beverly Hills, California.

EISNER JAFFE  
GORRY CHAPMAN & ROSS

By: /s/ Jackie M. Joseph  
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